

Unofficial Draft Copy

As of: June 20, 2008 (8:02am)

LC0065

**** Bill No. ****

Introduced By *****

By Request of the Legislative Finance Committee

A Bill for an Act entitled: "An Act Eliminating Certain General Fund Transfers relative to the adoption services account, the department of transportation state special revenue nonrestricted account, the motor vehicle recycling and disposal program, the noxious weed state special revenue account, the department of fish, wildlife, and parks, the state veterans' cemetery account and the veterans' services account, the senior citizens and persons with disabilities transportation services account, the search and rescue account, the rural physician incentive state special revenue account and the Morrill Act state special revenue account; amending sections 7-14-112, 10-2-112, 10-2-603, 10-3-801, 17-1-508, 17-6-201, 17-7-502, 20-26-1501, 61-3-459, 77-1-108, and 77-1-109, MCA; repealing sections 15-1-122 and 17-1-511, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-14-112, MCA, is amended to read:

"7-14-112. Senior citizen and persons with disabilities transportation services account -- use. (1) There is a senior citizen and persons with disabilities transportation services account in the state special revenue fund. ~~Money must be deposited in the account pursuant to 15-1-122(3)(e).~~

(2) Except as provided in subsection (6), the account must be used to provide operating funds or matching funds for operating grants pursuant to 49 U.S.C. 5311 to counties, incorporated cities and towns, transportation districts, or nonprofit organizations for transportation services for persons 60 years of age or older and for persons with disabilities.

(3) (a) Subject to the conditions of subsection (3)(b), the department of transportation is authorized to award grants to counties, incorporated cities and towns, transportation districts, and nonprofit organizations for transportation services using guidelines established in the state management plan for the purposes described in 49 U.S.C. 5310 and 5311.

(b) Priority for awarding grants must be determined according to the following factors:

(i) the most recent census or federal estimate of persons 60 years of age or older and persons with disabilities in the area served by a county, incorporated city or town, transportation district, or nonprofit organization;

(ii) the annual number of trips provided by the transportation provider to persons 60 years of age or older and to persons with disabilities in the transportation service area;

(iii) the ability of the transportation provider to provide matching money in an amount determined by the department of transportation; and

(iv) the coordination of services as required in subsection (5).

(4) The department of transportation shall ensure that the

available funding is distributed equally among the five transportation districts provided in 2-15-2502.

(5) In awarding grants, the department of transportation shall give preference to proposals that:

(a) include the establishment of a transit authority to coordinate service area or regional transportation services;

(b) address and document the transportation needs within the community, county, and service area or region;

(c) identify all other transportation providers in the community, county, and service area or region;

(d) explain how services are going to be coordinated with the other transportation providers in the service area or region;

(e) indicate how services are going to be expanded to meet the unmet needs of senior citizens and disabled persons within the community, county, and service area or region who are dependent upon public transit;

(f) include documentation of coordination with other local transportation programs within the community, county, and service area or region, including:

(i) utilization of existing resources and equipment to maximize the delivery of service; and

(ii) the projected increase in ridership and expansion of service;

(g) invite school districts to participate or be included in the transportation coordination efforts within the community, county, and service area or region; and

(h) at a minimum, comply with the provisions in subsections

(5)(b) through (5)(f).

(6) Any money remaining after grants have been awarded to transportation providers who provide transportation services for persons 60 years of age or older and persons with disabilities may be awarded to other transportation providers for operating costs or matching funds for operating grants for the purposes described in 49 U.S.C. 5311 other than for transportation services for persons 60 years of age or older or persons with disabilities."

{ Internal References to 7-14-112:
15-1-122x }

Section 2. Section 10-2-112, MCA, is amended to read:

"10-2-112. Veterans' services special revenue account -- sources of funds -- designated uses. (1) There is a veterans' services account in the state special revenue fund, established pursuant to 17-2-102(1)(b), to the credit of the board.

(2) Money ~~transferred pursuant to 15-1-122(3)(d)~~ from license plate sales as described in 10-2-114 and from gifts, grants, or donations must be deposited in the veterans' services account.

(3) Legislative appropriations of money in the veterans' services account must be used for the purposes identified in 10-2-102 or other functions authorized by the board.

(4) There is a veterans' services federal account in the federal special revenue fund established for federal funds received under 10-2-106."

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{ Internal References to 10-2-112:

10-2-102 check 1i x 10-2-106 x 10-2-106 x 10-2-114x
15-1-122 x 15-30-154 x 15-30-154 x 15-30-154x
15-30-154x }

Section 3. Section 10-2-603, MCA, is amended to read:

"10-2-603. Special revenue account -- use of funds -- solicitation. (1) There is an account in the special revenue fund to the credit of the board for the state veterans' cemeteries.

(2) Plot allowances, and donations to the cemetery program, ~~and fund transfers pursuant to 15-1-122(3)(d)~~ must be deposited into the account.

(3) The account is statutorily appropriated, as provided in 17-7-502, to the board and may be used only for the construction, maintenance, operation, and administration of the state veterans' cemeteries.

(4) The board shall solicit veterans' license plate sales and donations on behalf of the state veterans' cemeteries."

{ Internal References to 10-2-603:

10-2-102 x check 1i 10-2-106 x 15-1-122 x 15-30-154x
15-30-154 x 15-30-154 x 17-7-502 shld still be ok 61-3-459x }

Section 4. Section 10-3-801, MCA, is amended to read:

"10-3-801. Account created for funding search and rescue operations -- rules. (1) There is an account in the state special revenue fund established in 17-2-102. The account must be administered by the disaster and emergency services division of the department exclusively for the purposes of search and rescue as provided in this section. The department may retain up to 5%

of the money in the account to pay its costs of administering this section.

(2) There must be deposited in the account:

~~(a) fund transfers pursuant to 15-1-122(3)(f);~~

~~(b)~~(a) fund transfers pursuant to 87-1-601(9). These funds may be used only as provided in 87-1-601(9).

~~(c)~~(b) all money received by the department in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for search and rescue operations.

(3) (a) Not less than 50% of the money in the account must be used by the department to defray costs of:

(i) local search and rescue units for search and rescue missions conducted through a county sheriff's office at a maximum of \$3,000 for each rescue mission, regardless of the number of counties or county search and rescue organizations involved. To fulfill the purposes of this subsection (3)(a)(i), the department shall transmit reimbursement money to the county treasurer, who shall deposit the funds in a separate search and rescue fund accessible by the local search and rescue unit that requested the reimbursement. The county treasurer shall notify the reimbursed local search and rescue unit by mail when the deposit occurs.

(ii) a county sheriff's office at a maximum of \$3,000 for each rescue mission, regardless of the number of counties or county search and rescue organizations involved.

(b) The remaining money in the account may be used by the department:

(i) to match local funds for the purchase of equipment for

use by local search and rescue units at a maximum of \$2,000 for each unit in a calendar year. The cost-sharing match must be 35% local funds to 65% from the account.

(ii) for reimbursement of expenses related to the training of search and rescue volunteers.

(4) The department may adopt rules to implement the proper administration of the account. The rules may include:

(a) a method of reimbursing local search and rescue units or a county sheriff's office, on a case-by-case basis, for authorized search and rescue operations conducted pursuant to subsection (3)(a), including verification of search missions, claims procedures, fiscal accountability, and the number and circumstances of search missions involving persons engaged in hunting, fishing, and trapping in a fiscal year;

(b) methods for processing requests for equipment matching funds and training funds made pursuant to subsection (3)(b), including any verification and accounting necessary to ensure that the provisions of subsection (3)(b) are met, and determining the percentage of all search missions involving persons engaged in hunting, fishing, or trapping in a fiscal year;

(c) a system involving input from representatives of county sheriff organizations and state and local search and rescue organizations for assistance in verifying and processing claims for reimbursement, equipment, and training; and

(d) a method for compiling and keeping current a contact list of all search and rescue units in Montana and in neighboring states and provinces in order to ensure collaboration,

communication, and cooperation between the various county search and rescue units and between the department and the county units and dedication of a page on the department's website for posting the contact list and other relevant search and rescue information."

{ Internal References to 10-3-801:

15-1-122 x 87-1-601 x 87-1-601 x 87-1-601x }

Section 5. Section 17-1-508, MCA, is amended to read:

"17-1-508. Review of statutory appropriations. (1) Each biennium, the office of budget and program planning shall, in development of the executive budget, review and identify instances in which statutory appropriations in current law do not appear consistent with the guidelines set forth in subsection (2).

(2) The review of statutory appropriations must determine whether a statutory appropriation meets the requirements of 17-7-502. ~~Except as provided in 77-1-108, a~~ A statutory appropriation from a continuing and reliable source of revenue may not be used to fund administrative costs. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. A statutory appropriation may be considered appropriate if:

- (a) the fund or use requires an appropriation;
- (b) the money is not from a continuing, reliable, and estimable source;
- (c) the use of the appropriation or the expenditure

occurrence is not predictable and reliable;

(d) the authority does not exist elsewhere;

(e) an alternative appropriation method is not available, practical, or effective;

(f) other than for emergency purposes, it does not appropriate money from the state general fund;

(g) the money is dedicated for a specific use;

(h) the legislature wishes the activity to be funded on a continual basis; and

(i) when feasible, an expenditure cap and sunset date are included.

(3) The office of budget and program planning shall prepare a fiscal note for each piece of legislation that proposes to create or amend a statutory appropriation. It shall, consistent with the guidelines in this section, review each of these pieces of legislation. Its findings concerning the statutory appropriation must be contained in the fiscal note accompanying that legislation."

{Internal References to 17-1-508: None.x}

Section 6. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The unified investment program directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be administered by the board of investments in accordance with the prudent expert principle, which requires an investment manager to:

(a) discharge the duties with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters exercises in the conduct of an enterprise of a like character with like aims;

(b) diversify the holdings of each fund within the unified investment program to minimize the risk of loss and to maximize the rate of return unless, under the circumstances, it is clearly prudent not to do so; and

(c) discharge the duties solely in the interest of and for the benefit of the funds forming the unified investment program.

(2) (a) Retirement funds may be invested in common stocks of any corporation.

(b) Other public funds may not be invested in private corporate capital stock. "Private corporate capital stock" means only the common stock of a corporation.

(3) (a) This section does not prevent investment in any business activity in Montana, including activities that continue existing jobs or create new jobs in Montana.

(b) The board is urged under the prudent expert principle to invest up to 3% of retirement funds in venture capital companies. Whenever possible, preference should be given to investments in those venture capital companies that demonstrate an interest in making investments in Montana.

(c) In discharging its duties, the board shall consider the preservation of purchasing power of capital during periods of high monetary inflation.

(d) The board may not make a direct loan to an individual borrower. The purchase of a loan or a portion of a loan originated by a financial institution is not considered a direct loan.

(4) The board has the primary authority to invest state funds. Another agency may not invest state funds unless otherwise provided by law. The board shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has the power to veto investments made under its general supervision.

(5) The board shall:

(a) assist agencies with public money to determine if, when, and how much surplus cash is available for investment;

(b) determine the amount of surplus treasury cash to be invested;

(c) determine the type of investment to be made;

(d) prepare the claim to pay for the investment; and

(e) keep an account of the total of each investment fund and of all the investments belonging to the fund and a record of the participation of each treasury fund account in each investment fund.

(6) The board may:

(a) execute deeds of conveyance transferring real property obtained through investments. Prior to the transfer of real property directly purchased and held as an investment, the board shall obtain an appraisal by a qualified appraiser.

(b) direct the withdrawal of funds deposited by or for the

state treasurer pursuant to 17-6-101 and 17-6-105;

(c) direct the sale of securities in the program at their full and true value when found necessary to raise money for payments due from the treasury funds for which the securities have been purchased.

(7) The cost of administering and accounting for each investment fund must be deducted from the income from each fund, other than the fund derived from land granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329. An appropriation to pay the costs of administering and accounting for the Morrill Act Fund is provided for in ~~77-1-108~~the general appropriations act."

{ Internal References to 17-6-201:

10-2-703	x	17-6-305	x	17-6-308	x	17-6-308x
77-1-101	x	77-1-701	x	77-1-905	x	80-6-315x
80-7-816	x	80-8-116	x	80-10-207	x	80-15-302x}

Section 7. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be

listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-121; 15-1-218; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; ~~77-1-108~~; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; 90-9-306; and section 2, Chapter 6, Special Laws of May 2007.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws

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of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 10, Ch. 6, Sp. L. May 2007, the inclusion of section 2, Chapter 6, Special Laws of May 2007, terminates July 1, 2008; and pursuant to sec. 6, Ch. 2, Sp. L. September 2007, the inclusion of 76-13-150 is effective July 1, 2008, and terminates June 30, 2009.) "

{ Internal References to 17-7-502:

2-17-105	x	5-11-120	x	5-11-407	x	5-13-403x
7-4-2502	x	10-1-1202	x	10-1-1303	x	10-2-603A
10-3-203	x	10-3-310		10-3-312x		
10-3-314	x	10-4-301	x	15-1-111	x	15-1-121x
15-1-218	x	15-23-706	x	15-31-906	x	15-35-108x
15-36-332	x	15-37-117	x	15-39-110	x	15-65-121x

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15-70-101	x	15-70-369	x	15-70-601	x	16-11-509x
17-1-508	x	17-3-106	x	17-3-212	x	17-3-222x
17-3-241	x	17-6-101	x	17-7-304	x	17-7-501x
18-11-112	x	19-3-319	x	19-6-404	x	19-6-410x
19-9-702	x	19-13-604	x	19-17-301	x	19-18-512x
19-19-305	x	19-19-506	x	19-20-604	x	19-20-607x
19-21-203	x	20-8-107	x	20-9-534	x	20-9-622x
20-26-1503	x	20-26-1503	x	22-3-1004	x	23-4-105x
23-4-202	x	23-4-204	x	23-4-302	x	23-4-302x
23-4-304	x	23-5-306	x	23-5-409	x	23-5-612x
23-7-301	x	23-7-402	x	37-43-204	x	37-51-501x
39-71-503	x	41-5-2011	x	42-2-105	x	44-1-504x
44-12-206	x	44-13-102	x	50-4-623	x	53-1-109x
53-6-703	x	53-24-108	x	53-24-108	x	53-24-206x
60-11-115	x	61-3-415	x	69-3-870	x	75-1-1101x
75-1-1101	x	75-5-1108	x	75-6-214	x	75-10-622x
75-11-313	x	77-1-108 still ok	--R	77-2-362	x	80-2-222x
80-4-416	x	80-5-510	x	80-11-518	x	82-11-161x
87-1-513	x	90-1-115	x	90-1-115	x	90-1-205x
90-3-1003	x	90-9-306x	}			

Section 8. Section 20-26-1501, MCA, is amended to read:

"20-26-1501. (Temporary) Rural physician incentive state special revenue account. There is a rural physician incentive state special revenue account in the state treasury. Money is payable into the account as provided in 20-26-1502. Income and earnings on the account must be redeposited in the account. The account must be administered by the board of regents as provided in this part.

20-26-1501. (Effective July 1, 2008) Incentive for physicians practicing in rural areas or medically underserved areas or for underserved populations state special revenue account. There is an incentive for physicians practicing in rural areas or medically underserved areas or for underserved populations state special revenue account. Money is payable into the account as provided in ~~17-1-511~~ and 20-26-1502. Income and

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earnings on the account must be redeposited in the account. The account must be administered by the board of regents as provided in this part."

{ Internal References to 20-26-1501:

17-1-511	x	17-1-511	x	17-1-511	x	17-1-511x
20-26-1502	x	20-26-1502	x	20-26-1503	x	20-26-1503x

Section 9. Section 61-3-459, MCA, is amended to read:

"61-3-459. Veterans' cemetery fee for special veteran license plates -- disposition. (1) Except as provided in 61-3-460, an applicant for special veteran license plates provided for under 61-3-458(3) shall pay \$10 for each set issued, renewed, or transferred, in addition to any other taxes or fees applicable under this chapter.

(2) Fees collected under this section must be deposited in the state general fund ~~and transferred as provided in 15-1-122 to the special revenue account for state veterans' cemeteries established in 10-2-603.~~"

{ Internal References to 61-3-459:

15-1-121	x	61-3-458	x	61-3-458	x	61-3-460x
61-3-460x						

Section 10. Section 77-1-108, MCA, is amended to read:

"77-1-108. Trust land administration account. (1) There is a trust land administration account in the state special revenue fund. Money in the account is available to the department by appropriation and must be used to pay the costs of administering state trust lands.

(2) Appropriations from the account for each fiscal year

may not exceed the sum of 1 1/8% of the book value balance in the permanent funds administered by the department, other than the fund containing proceeds derived from land granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329, on the first day of January preceding the new biennium and 10% of the revenue deposited in the capitol building land grant trust fund in the last-completed fiscal year prior to the new biennium.

(3) ~~Except as provided in subsection (4), unreserved~~ Unreserved funds remaining in the account at the end of a fiscal year must be transferred to each of the permanent funds in proportionate shares to each fund's contribution to the account as calculated in 77-1-109(3).

~~(4) (a) The amount of \$80,000 each biennium is transferred from the state general fund to an account in the state special revenue fund. The account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes of administering the land granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329. Any unexpended portion of the statutory appropriation may be retained in the account and used for the administration of the Morrill Act land.~~

~~(b) At the end of each fiscal year, the department shall pay from the appropriation in subsection (4)(a) to the trust containing proceeds derived from land granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329, an amount~~

~~calculated to be the cost of administering the investment of the fund derived from that trust. The payment must be based upon the percentage that the Morrill Act fund constitutes of the total fund derived from all trust lands."~~

{ Internal References to 77-1-108:

17-1-508 x 17-6-201 x 17-7-502 x 77-1-109x
77-1-109 x 77-2-328x }

Section 11. Section 77-1-109, MCA, is amended to read:

"77-1-109. Deposits of proceeds in trust land

administration account. (1) (a) The department shall, until the deposit equals the amount appropriated for the fiscal year pursuant to 77-1-108, deposit into the trust land administration account created by 77-1-108 the following:

(i) mineral royalties;

(ii) the proceeds or income from the sale of easements and timber, except timber from public school and Montana university system lands;

(iii) 5% of the interest and income annually credited to the public school fund in accordance with 20-9-341; and

(iv) fees collected pursuant to 77-2-328.

(b) The department may not make deductions from interest or income generated from lands granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329.

(2) After the deposits in subsection (1) have been made, the remainder of the proceeds, other than proceeds from timber from Montana university system lands and other than those

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purchased pursuant to 17-6-340, must be deposited in the appropriate permanent fund and the capitol building land grant trust fund. Timber proceeds from university system lands must be paid over to the state treasurer, who shall deposit the money to the credit of the proper fund for use as provided in 17-3-1003(1). Royalty payments purchased pursuant to 17-6-340 must be used as provided in that section and 20-9-622.

(3) The amount of money that is deposited into the trust land administration account may not exceed 1 1/8% of the book value balance in each of the permanent funds, ~~other than the fund containing proceeds derived from lands granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329, administered by the department on the first day of January preceding the new biennium and 10% of the previous fiscal year revenue deposited into the capitol building land grant trust fund. The Morrill Act permanent fund is not included in this calculation.~~"

{ Internal References to 77-1-109:

17-3-1003	x	17-3-1003	x	18-2-107	x	20-9-341x
20-9-601	x	20-9-601	x	20-25-422	x	77-1-108x}

NEW SECTION. **Section 12. {standard} Repealer.** Sections 15-1-122 and 17-1-511, MCA, are repealed.

{ Internal References to a15-1-122: a 7-14-112 a 10-2-112 a 10-2-603
a10-3-801
a61-3-459
Internal References to 17-1-511: a20-26-1501 }

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NEW SECTION. **Section 13. {standard} Effective date.** [This
act] is effective July 1, 2009.

- END -

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